



DECISION NOTICE
For the Proposed Land Acquisition: Fish Creek Wildlife Management Area
and Fish Creek State Park

Montana Fish, Wildlife & Parks
Region 2
3201 Spurgin Road, Missoula MT 59804
406-542-5500

February 2010

DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks (FWP) proposed to purchase via fee title a 33,295-acre Wildlife Management Area, and a 7,650-acre State Park from The Nature Conservancy (TNC) in the Bitterroot Mountains south of Tarkio, Montana, within the Middle Clark Fork River watershed. The project area is located in Mineral County, within FWP administrative Region Two. Funding would come from the state Habitat Montana and Access Montana Programs, and the federal Pittman-Robertson Program, in the amount of approximately \$14,350,000.

The Fish Creek Project includes important upland and riparian habitats that FWP and the public have long recognized as having exceptional wildlife, fish, and recreation values. The following are highlights of the resource values FWP wants to protect:

- The proposed project would protect critical winter range for ungulates, as well as a crucial linkage zone for forest carnivores (i.e. Canada lynx, grizzly bear, wolverine) between the Ninemile Divide and Selway-Bitterroot Wilderness (American Wildlands, 2008; Servheen et.al., 2003). The drainage also supports diverse populations of predators, furbearers, and upland game birds, as well as 31 terrestrial vertebrate species of concern that have been verified or are potentially found within the Fish Creek Project area (Montana Natural Heritage Program, 2009).
- The proposed acquisition of these acres would ensure the protection of Fish Creek and its tributaries, which support important native fish populations, key trout spawning and rearing habitat, and an outstanding fishery. Additionally, the Fish Creek drainage is an ongoing FWP aquatic restoration priority.

- The proposed project would provide public ownership of an area that is already heavily used for recreation activities such as hunting, hiking, angling, sightseeing, motorized use, wildlife viewing, and camping. Portions of the property are adjacent to the Alberton Gorge, an FWP owned and managed section of the Clark Fork River that is popular for whitewater boating. Acquisition of some of these properties was prioritized in the 2007 Alberton Gorge Conceptual Plan (FWP, 2007) and would enhance the resource values and recreation experience of the Alberton Gorge. Acquisition of the property would also have potential for expanding recreation opportunities in the area and could include a developed campground, trail system(s), a fire lookout rental, and an equestrian campground.

ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

No Action: FWP would not purchase the Fish Creek Project Property

Under the No Action Alternative, FWP would not purchase the Fish Creek lands from TNC. TNC would likely research other selling options that may jeopardize their ability to protect the entire habitat community as one unit. The possibility would exist that some parcels would be subdivided and developed, and continued public recreational access would be jeopardized.

Alternatives Considered but Eliminated from Further Consideration

FWP Purchase a Conservation Easement for Property

This alternative was briefly discussed but eliminated from consideration because TNC is only interested in selling the property at this time.

FWP Purchase a Portion of the Property

FWP considered whether to purchase only the lands most suitable to be managed as a Wildlife Management Area (WMA), using only the limited funding sources dedicated for that purpose. Similarly, FWP considered whether to purchase only the lands most suitable to be managed as a State Park, using only limited funding sources dedicated for that purpose. FWP also briefly considered other configurations of prospective WMA and Park lands that would leave some of the subject parcels in TNC ownership. This alternative was eliminated from further consideration in developing this proposal because the acreage in its entirety uniquely matches FWP program objectives, and potential future fragmentation of any parcels excluded from this proposal would compromise the benefits of the project.

PUBLIC REVIEW PROCESS

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information.

FWP released a draft environmental assessment (EA), including a draft preliminary management plan and socio-economic assessment, for public review on January 21, 2010 and accepted public

comment until 5:00 P. M. February 19, 2010. The EA was posted on the FWP website on January 20 and remained available through the comment period. A legal notice advertising availability of the EA and the public hearing date was published twice each in the *Great Falls Tribune* (Jan 21 & 28), *Independent Record* (Helena, Jan 21 & 28), *Mineral Independent* (Plains, Jan 20 & 26), *Missoulian* (Jan 21 & 28), and the *Montana Standard* (Butte, Jan 21 & 28) newspapers. A statewide news release was distributed January 21, and the proposal attracted feature news coverage in two editions of the *Missoulian* during the comment period.

Copies of the EA were mailed to 55 adjacent landowners and to 27 interested parties (individuals, groups, and government agencies); postcard notification of the EA's availability was mailed to 54 interested parties; and email notification of the EA's availability was emailed to 82 interested parties.

Additionally, a public hearing was hosted by FWP at the Superior High School on February 2, 2010. The meeting provided an opportunity for FWP to address questions about the proposed project and its alternatives and to receive public comments.

FWP revised the boundaries of the proposed State Park and proposed Wildlife Management Area (WMA) from those originally depicted in Appendix A of the Draft Preliminary Management Plan. This revision increased the State Park by approximately 750 acres (11%) and decreased the WMA by the same acreage (2%) from the original disclosure; the final proposal is a State Park of approximately 7,650 acres and a WMA of approximately 33,295 acres. Copies of the revised map were handed out to all who attended the public hearing in Superior on February 2nd, and highlighted in FWP's PowerPoint presentation at that hearing. The revised map also was posted on FWP's website on February 5th, alongside the Draft EA, for public comment.

SUMMARY OF PUBLIC HEARING COMMENTS

Seventy-one (71) people signed in at the public hearing in Superior. Eleven (11) people testified; five (5) in support, five (5) with specific suggestions for FWP future management and process, and one (1) listed specific issues as an adjacent landowner. FWP made a digital recording of the hearing, and took the following written notes at the hearing:

- Bob Lamley – former Champion employee
 - Trail Riders Association is interested in establishing OHV routes in this area and would be riding when the elk have left for the summer. The EA makes very little reference to ATV riders.
 - Suggest Hay Creek to Beaver Slough as an ATV route.
 - Williams Pass Rd to Whitehorse and Winkler would be another route not near riparian areas.
- Larry Jacobs – owned land in the area since 1971
 - Lots of details need to be worked out, but on the whole I'm 100% for the proposal.
 - I commend Mack (FWP) and the Mineral County Commissioners.

- It will be an economic benefit to the county.
 - It takes care of future generations.
 - I urge the Commission and the Land Board to approve.
- Ollie St. Clair – adjoining landowner
- I trust FWP most among government agencies.
 - History teaches that roads don't get maintained.
 - Garbage is a concern.
 - Good idea for FWP to purchase this but the whole area should be a WMA, not a park.
 - I have a company that builds parks and it takes a lot of money to do so.
 - Is the \$300,000 (for maintenance) a one-time fund?
 - What are the priorities?
 - Would require road maintenance, signs, and garbage collection.
 - Our wildlife counts are down and now we're going to attract more people, which does not help wildlife.
 - With no more staff, we have only one game warden and he can't keep up.
 - There's a better place for this park.
 - Build the park out on the freeway where there's better control and it would be less expensive to maintain.
 - Users want restrooms, pads; things like that cost money.
 - I'm in favor of FWP and we have 36 months to make a good plan. Need to look at the return on the investment for this park. Mineral County cannot afford its share.
 - I do support the purchase.
- Roger Fulberg – Western Montana Trailriders
- Safety is a concern for people who ride OHVs here.
 - Designated OHV trails provide safety for kids and families riding. It's dangerous to share the roads with full size vehicles.
 - Need loop routes.
 - There are a lot of ATV riders and they're growing in number.
- Alvin Meeks – been going up Fish Creek since 1963
- I think the best thing ever for Fish Creek is for FWP to buy that ground.
 - I think these guys (FWP) are doing excellent with trying to appease everyone, but first we have to purchase the land.
- Pamela Reed
- Appreciate FWP
 - What better landlord than wildlife stewards?
 - Appreciate agency willing to work with us.
- Judy Stang
- We hope you'll have all your public hearings in Mineral County.

- Kate Thompson
 - I love you guys taking this ownership if fish and wildlife is our primary purpose.
 - Keep it preserved because there are more people than room for wildlife.
 - Really limit the things that have an impact (referring to ATVs).
 - I really appreciate that this might be a business opportunity.
- Tim Reed – Mineral County planner
 - A potential campground would seem appurtenant to county subdivision rules and also Mineral County road ownership. (Mr. Reed provided clarification afterward that a campground development would not trigger subdivision review.)
- Jeff Cyr
 - EA is vague about neighboring landowners.
 - My family has water rights on springs in the proposed park location; worry about my right to maintain this.
 - I have a cabin now right next to the proposed park, so some concerns.
- Gordon Hendrick
 - Concerned as a resident of Mineral County.
 - Concerned about complaints of dust abatement and citizen concerns.
 - FWP needs to work one-on-one with citizens.
 - Need more clarification on who is responsible for which road section.

SUMMARY OF ALL PUBLIC COMMENTS

FWP obtained public comment at the public hearing, by phone, by email, and in letters from January 21 until 5:00 P. M. on February 19th. Comments received afterward are not summarized herein nor considered in this decision, but as always are welcomed and will be considered in future management.

A total of 97 individuals or organizations provided comments for the record. Commenters were distributed geographically as follows: Missoula (31), Alberton – Cyr (14), Unknown (13), Public Hearing (11), St. Regis (4), Superior (3), Fish Creek (2), Hamilton (2), Helena (2), Huson (2), Nemote (2), Clinton (1), Darby (1), Emigrant (1), Florence (1), Harrison (1), Ovando (1), Polson (1), Tarkio (1), Thompson Falls (1), Victor (1), and Whitehall (1).

In a few cases, FWP received more than one set of comments from a single person. For example, one person may have testified at the public hearing, and then submitted a letter or email later in the process. For the purposes of categorizing and summarizing comments, we counted two or more comments from the same individual as a single comment in cases where the same opinion was registered more than once. However, if a second email or letter from one individual added new information, we collected and counted the new information offered by that individual. This was our attempt to hear and consider every single comment from every single individual or organization, but to avoid allowing any one entity's support or opposition to be tallied multiple times.

Also, FWP occasionally received a letter or email signed by more than one person. These instances were few and involved no more than seven signatures on any single email or letter (9 emails or letters and 24 signatures). Therefore, we chose to consider these comments as one for each signatory when tallying support or opposition. This process choice did not tip the outcome in any particular direction, and we preferred to err on the side of hearing and counting everyone's voice. We also considered that FWP did not provide any instruction in advance that would diminish or disqualify anyone's opinion if given in this manner. We received no petitions or form letters that might have forced us to take a different tack when evaluating multiple signatures. A letter, email, or testimony from an organized group was counted as one set of comments in our tallies, though our further consideration of comments and content was mindful that these represented a larger membership or body.

Seven non-governmental organizations submitted comments as did two public agencies and one business. Photocopies of the letters from these entities are appended in full to this decision notice. All comments from all individuals are also listed at the end of this notice.

A total of 77 individuals and organizations (79% of all who commented) indicated support for FWP to purchase the Fish Creek property. No one registered opposition to FWP acquiring the property, and 20 (21%) commented without giving a clear opinion for or against the property coming to FWP.

The following is a summarization of comments given in support of FWP acquiring the Fish Creek property. The numbers in parentheses indicate the number of times a comment was given. In many cases, a single individual or organization may have provided comments that fit in multiple categories. Therefore, the total number of comments for all summarized categories is larger than the number of commentators listed above.

1. Protect fish and wildlife values (50 individuals or organizations)
2. Keep the property in public ownership (23)
3. Scenic and natural beauty (16)
4. General public access (15)
5. Economic benefits (14)
6. Provide general outdoor recreation (14)
7. Pass it on to future generations (13)
8. Provide hunting and angling access (13)
9. Hiking (6)
10. Camping (4)
11. River recreation (4)
12. Compliments Alberton Gorge (3)
13. Quality of life (3)
14. Opportunities for future forest management (2)
15. Reasonable price of acquisition (2)
16. Water quality (2)
17. FWP pays taxes (1)
18. Potential for horseback riding (1)
19. Potential for Off-Highway-Vehicle (OHV) use (1)

The following is a summarization of additional comments given for FWP to consider when deciding whether to acquire the Fish Creek property. The numbers in parentheses indicate the number of times a comment was given. In many cases, a single individual or organization may have provided comments that fit in multiple categories. Therefore, the total number of comments for all summarized categories is larger than the number of commentors listed above.

1. Concerns about the State Park (114)
2. Concerns about road maintenance, traffic, safety (43)
3. Concerns about impacts of increased public use on fish and wildlife (30)
4. Financial impacts to Mineral County (lack of enough law enforcement, etc) (28)
5. Concerns about increased or broadened OHV use (22)
6. Adjacent landowners: communication, litter, vandalism, trespass, fire (13)
7. Mineral rights (3)
8. Interest in more OHV opportunities, increased safety for OHV riders (2)
9. Communication between FWP Parks Division and Fish & Wildlife Division (1)

A total of 25 individuals and organizations (26% of all who commented) indicated support for FWP to manage a portion of the Fish Creek property as a State Park. A total of 29 (30%) individuals and organizations registered opposition to FWP establishing a State Park on the property. Another 9 (9%) commented that the Park should be smaller than proposed, and 1 (2%) was “on the fence” with regard to the Park. The remaining 32 individuals or organizations (33%) did not offer a clear opinion for or against the Park.

A total of 32 individuals and organizations (33% of all who commented) indicated support for FWP to manage all or a portion of the Fish Creek property as a Wildlife Management Area (WMA). No one registered opposition to FWP establishing a WMA on the property, and 65 (67%) commented without giving a clear opinion for or against the WMA.

Comments given in support of FWP managing a portion of the Fish Creek property as a State Park were summarized above as support for the overall acquisition. Concerns expressed about FWP establishing a State Park are categorized below. The numbers in parentheses indicate the number of times a comment was given. In many cases, a single individual or organization may have provided comments that fit in multiple categories. Therefore, the total number of comments for all summarized categories is larger than the number of commentors listed above.

1. Park would negatively affect fish and wildlife protection (29)
2. Park would attract too many people (21)
3. Concerns about too much development in the Park (17)
4. Inadequate funding for maintenance (12)
5. High costs of construction and maintenance (10)
6. Will increase use of FAS at Cyr (bridge and roads will need repair) (8)
7. Conflicts in future direction with nature and traditional recreation patterns (7)
8. Impacts of Park development on hunting and fishing recreation (7)
9. Would increase out of state visitors at the expense of local people (7)
10. Spillover of recreation from Park to WMA and Wilderness (5)
11. Concern that Access Montana funds being used to create user conflicts (4)

12. Concern for protecting private water rights (3)
13. Does not agree with Parks management direction ARM 12.8.102 (3)

The Preliminary Management Plan disclosed FWP's proposed management direction for the first three years following acquisition of the Fish Creek property. Comments on the Preliminary Management Plan are categorized below. The numbers in parentheses indicate the number of times a comment was given. In many cases, a single individual or organization may have provided comments that fit in multiple categories. Therefore, the total number of comments for all summarized categories is larger than the number of commentors listed above.

1. Support existing OHV use on roads built for motorized travel (18)
2. Allow commercial outfitting in the Park (11)
3. Favor opportunities for firewood cutting (11)
4. Oppose the proposed winter closure in the area between Deer Creek and Wig Creek (11)
5. Allow commercial outfitting (10)
6. Oppose OHV use (8)
7. Allow more access for hunters with disabilities (8)
8. Retain an open hunting access policy (7)
9. Support habitat restoration work (7)
10. Manage for a primitive recreation experience (5)
11. Language in the Preliminary Management Plan is pre-decisional toward future management (4)
12. Maintain status quo (4)
13. Do not allow commercial angling outfitting in the Park (3)
14. Make weed control a priority (3)
15. Close and revegetate roads (2)
16. Continue primitive camping along Fish Creek (2)
17. Generally support OHV use (2)
18. Support or expand the winter closure (2)
19. Amend the MOU (Appendix B, Preliminary Management Plan) to reflect revised Park boundary (1)
20. Manage as wilderness (1)
21. Use BMPs from Wildlands CPR (1)

Comments from organized groups, agencies and business may be summarized as follows:
(Again, photocopies of the letters from these entities are appended in full to this decision notice.)

U. S. Fish and Wildlife Service supports the overall acquisition, supports the WMA, questions the compatibility of the Park with wildlife linkage areas.

Montana Department of Natural Resources and Conservation supports the overall acquisition.

World Class Kayak Academy supports acquiring the State Park.

Great Burn Study Group supports the overall acquisition, supports the WMA, supports the State Park.

Montana Trout Unlimited supports the overall acquisition, supports the WMA and recommends that it be larger, does not support the State Park.

Western Montana Trail Riders Association did not indicate an opinion on the acquisition. Clark Fork Coalition supports the overall acquisition, supports the WMA, does not support the State Park.

Wildlands CPR supports the overall acquisition, supports the WMA. Hellgate Hunters & Anglers supports the overall acquisition, supports the WMA, recommends a smaller State Park.

Montana Backcountry Hunters & Anglers supports the overall acquisition, supports the WMA and recommends that it be larger, recommends a smaller State Park.

Comment: U. S. Fish and Wildlife Service

... The reason for the Fish and Wildlife Service commenting on this acquisition is that portions of this area are within identified linkage areas across the I-90 corridor. We went through several processes to identify linkage areas between Ninemile and Lookout Pass along I-90. One of these processes involved scoring the habitat in terms of levels of development, road density and the contiguous nature of state and federal lands. Using this process, the lands on the northwestern edge of the Fish Creek area, including parts of the Fish Creek Acquisition area, were identified as linkage areas for wildlife. The other process we used was to go to local residents and ask them where they see wildlife crossing the I-90 corridor and where they see seasonal concentrations of wildlife. Using this process the northeastern edge of the Fish Creek area, including parts of the Fish Creek acquisition area, was identified by community members as a wildlife linkage area.

The management of linkage areas requires several considerations if these lands are to remain effective movement areas for wildlife including: 1) no additional site developments such as campgrounds, boat ramps or trailheads where human activity and human-related attractants like garbage and foods are concentrated; 2) no increase in motorized access routes or motorized use areas; and 3) maintenance or enhancement of visual cover in these areas so as to make wildlife more secure when they move through such areas.

Looking at the management approaches outlined in your management plan document, it appears that management of these areas as wildlife management areas rather than state parks would be most appropriate for maintaining these areas as effective wildlife movement and linkage areas.

The wildlife linkage areas mapped by the Service and included with its letter intersect T14N, R25W, Sections 1, 2, 3, 11, 14, 15, 22, 23, 27 (generally within the WMA); T14N, R24W, Sections 3, 9, 10, 11, 15, 21 (including Park and WMA); as well as sections north of I-90 (WMA).

FWP Response: As disclosed in the draft EA, FWP is aware of these wildlife linkage areas and values their existence and continued function as a primary purpose for acquiring the Fish

Creek property. The boundary between the WMA and the State Park was specifically crafted to include virtually the entirety of the northwest linkage area within the WMA. Much of the northeast linkage area is outside the State Park boundary. A concept plan for proposed park facilities will be developed through a long-term management planning process that will consider the wildlife values and include public involvement. We appreciate the guidance offered by the Service regarding management stipulations to protect and preserve these linkages, whether occurring in the WMA or the Park.

Comment: MT Department of Natural Resources and Conservation (DNRC)

The DNRC supports DFWP's acquisition of these lands and believes that should the Action Alternative be selected, that this will provide a significant opportunity for us to work with a sister state agency. In addition, we feel that having one large landowner rather than several smaller ones to interact with in Fish Creek will simplify the management of our parcels within the watershed.

Our most pressing concern with the project as a whole is in regards to the level of interaction that DFWP plans on having with the DNRC during the remainder of the development phase of this project and, if the Action Alternative is selected, upon DFWP's acquisition of ownership of the land. At the present time, DNRC owns 6524 acres (4% of the total) within the Fish Creek watershed, making us a major landowner in Fish Creek. In addition, the DNRC owns another 2281 acres within or adjacent to other lands included in this proposal. Within our holdings, the DNRC currently manages 7 cabin sites, have sold easements to both the Big Pine and Forks sites to DFWP and has plans to conduct timber management activities within the next ten years. As such, we believe that it is critical that the DFWP works closely with us during both the development of this project and, if the Action Alternative is selected, future management of the Fish Creek area in order to ensure that both agencies are able to conduct the full range of proposed and potential management activities in the most conflict free manner possible.

We are also concerned that DFWP plans any of their potential activities within the Fish Creek area in such a manner as to minimize conflicts between uses on DFWP ownership and our Recreational Use Rules when recreationists cross over onto School Trust lands or vice versa. We would like to see a discussion in the Final EA which discloses how the DFWP is going to work with all of the neighboring landowners in Fish Creek in order to ensure that any potential conflicts between each others rules and/or policies would be minimized.

FWP Response: FWP is committed to working closely with adjacent landowners in addressing current management issues and developing a long-term management plan.

Comment: MT Department of Natural Resources and Conservation (DNRC)

The location of the proposed Park seems contradictory to the carnivore linkage zone and winter range objectives. Even with proposed mitigations indicated in the Interim Management Plan (Appendix B), an area with concentrated recreational use (equestrian, angling, camping, OHV, mountain bike, etc.), such as the Park, may impact use of that corridor by carnivores.

FWP Response: As disclosed in the draft EA, FWP is aware of these wildlife linkage areas and values their existence and continued function as a primary purpose for acquiring the Fish Creek property. The boundary between the WMA and the Park was specifically crafted to include virtually the entirety of the northwest linkage area within the WMA. Much of the northeast linkage area is outside the State Park boundary. A concept plan for proposed park facilities will be developed through a long-term management planning process that will consider the wildlife values and include public involvement.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Second, portions of the park occupy elk winter range, including areas designated as “critical” elk winter range (elk99 GIS layer obtained from MT FWP website). To bring the proposal more in line with (1) the proposed action’s objectives, (2) objectives of the Pittman-Robertson Program, and (3) objectives of the Habitat Montana program, it would seem that a potential location for the Park with the least potential for conflict with the aforementioned action objectives would be on lands proposed for acquisition in T13N R25W, as there is less elk winter range, and no “critical” elk winter range habitat (elk99 GIS layer).

FWP Response: Our data demonstrates that elk winter range values increase generally as one moves south through the Fish Creek property. The Park location, as proposed, includes large blocks of north-facing aspects and has the advantage of being in near proximity to I-90, which minimizes vehicular traffic within the watershed to access the Park. Overlap between the Park and elk/deer winter range is virtually unavoidable within the project area, and the proposed Park location was chosen to minimize the potential conflict arising from this overlap. The mitigations disclosed in Appendix B of the Preliminary Management Plan are designed to further address this.

Comment: MT Department of Natural Resources and Conservation (DNRC)

The DNRC also believes that the Final EA needs to contain a discussion concerning the relationship of this property acquisition to other projects that DFWP may be undertaking within the area adjacent to Fish Creek. For example, the “Rails to Trails” project, if completed would pass through several parcels of DNRC land and may link the Fish Creek property up to other areas. Please disclose any interactions projects like this or others may have upon the proposed DFWP acquisition of the Fish Creek property.

FWP Response: These scenarios will be taken into consideration during the long-term management planning process that will take place following acquisition.

Comment: MT Department of Natural Resources and Conservation (DNRC)

The Draft EA is silent with regards to trapping. With an objective of preserving an important forest carnivore linkage zone, the final EA and/or Decision Notice should address the relevance of trapping to the proposed action’s objectives, as well as to wolverine, a species of concern, and the Canada Lynx, a federally Threatened species. While there is no trapping season for Lynx in Montana, they are occasionally caught as non-target species in bobcat snares.

FWP Response: Trapping may be allowed with written permission on FWP lands. The provision for requiring written permission allows FWP to control the geographic distribution of trapping on the property, seasons, methods, and require any other stipulations as may be needed to minimize potential conflicts with other resources. We appreciate this comment and may consider limiting the type of trapping that occurs within the linkage areas.

Comment: MT Department of Natural Resources and Conservation (DNRC)

On page 9, the last bullet regarding the Habitat Montana funding-item “c) the implementation of habitat management systems that are compatible with and minimize conflicts between wildlife values and traditional agricultural, economic, and cultural values.” The DNRC would like the Final EA to contain a more definitive description of what DFWP believes the traditional agricultural, economic and cultural values within the Fish Creek area to be and a more specific description of how DFWP would conduct their proposed management activities in order to minimize conflicts with these values.

FWP Response: As also stated on page 9, FWP will address this in the first 36 months after acquisition.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page 11, paragraph 5 the final sentence- “For the immediate future, no new FWP staff are planned to be hired to manage the property”. The DNRC believes that the Final EA should contain a detailed description of how the DFWP intends to deal with the management and enforcement issues that are certain to arise with the expanded use of the Fish Creek area that is likely to result following the establishment of the proposed state park, increased trail systems etc. with their current staff. As DFWP wardens serve as the enforcement agents for the DNRC’s Recreational Use Rules, we are concerned that any increase in activity on DFWP ownership, should the Action Alternative be selected, may reduce the ability of the current warden staff to meet our needs. In addition, as the two existing public campsites (Big Pine and Forks) are on our ownership, we are concerned that if DFWP expands the number of sites within the Fish Creek area the current maintenance staff may become overwhelmed and the care of our lands may be reduced.

FWP Response: The Preliminary Management Plan does not allow for significant development beyond the general existing infrastructure within the first 36 months of FWP ownership, with the exception of any needed improvements to allow overnight use by the public of Williams Peak lookout. Therefore, the first 36 months following acquisition will be a period within which FWP will assimilate the duties in Fish Creek within the work plans of existing staff and budgets. Assessment will be made over time as to the need for additional staff and funding, and no new developments on the land will be undertaken without provision made in advance for maintenance.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page 12, paragraph 2 under 3.1 Land Use-second sentence- “The vast majority of roads are abandoned logging roads with approximately 115 miles (22%) open to the motoring public. The DNRC requests that the DFWP explain the criteria used to determine what constituted an “abandoned” logging road. It is typical that following timber harvest, roads accessing

sale areas may not be used, or are used sporadically, for many years until the area is re-entered for another harvest etc. The DNRC is concerned that roads which are merely not being used at the current time may have been misclassified as “abandoned”

FWP Response: Thank you for your comment.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page 13- first paragraph, last sentence- “A complete inventory of road ownership will be completed by FWP to ensure roads are maintained by the appropriate party to ensure public safety and signed accordingly to direct public access.” The DNRC requests that a proposed timeline for the completion of this inventory be included in the Final EA. In addition, the DNRC would like to see an assurance, from DFWP that the process of creating the road inventory would involve including all of the landowners within the project area. We believe that failing to do so might result in errors within the inventory that might preclude or otherwise make it more difficult for other landowners to conduct current and future management activities within the Fish Creek area.

FWP Response: Thank you for your offer of assistance with the road inventory.

Comment: MT Department of Natural Resources and Conservation (DNRC)

On page 13 of the Draft EA, there is discussion regarding timber management under the proposed action. Specifically, management effects on woody forage for big game. It is our understanding that Wildlife Management Areas are to be managed for all wildlife. As many of the lands proposed for acquisition do not have an immediate need for timber harvesting due to past harvest or fire, DNRC would recommend development of a long term timber management plan for the affected lands that is in accordance with the two wildlife objectives of this proposed action: a. Protect and enhance critical winter range and other seasonal habitats for a diversity of wildlife; and b. To preserve an important forest carnivore linkage zone between the Ninemile Divide and Selway-Bitterroot Wilderness.

FWP Response: Thank you for your comment. Inventory preparatory to development of a forest management plan will begin with FWP’s acquisition of the property.

Comment: MT Department of Natural Resources and Conservation (DNRC)

In addition, the DNRC would like to see the Final EA contain a discussion of the Fiber Supply Agreement between Plum Creek and The Nature Conservancy and any affect that the agreement may have on these lands if DFWP does acquire them.

FWP Response: The fiber supply agreement between The Nature Conservancy and Plum Creek will not pertain to the Fish Creek property.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page 21-paragraph 7-last sentence- “Commercial fishing and hunting outfitting would not be permitted on any portions of the wildlife management area’. While we currently do not have any licensed outfitting occurring on our lands within the project area, nor have we had any requests in the recent past, should such a request be made, the DNRC would certainly

consider approving it. If this were to occur, particularly on lands within the WMA boundary, the DNRC is concerned that conflicts may occur between the agencies. In order to meet our fiduciary responsibility to our trust beneficiaries, the DNRC would be reluctant to forego an opportunity to generate revenue from the licensing of a responsible outfitter within this area. Therefore, we request that the DFWP address any concerns and possible solutions they might have, should this situation occur, in the Final EA.

FWP Response: Thank you for making this concern known. FWP is willing to work with DNRC on these and other issues if and as they arise.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page 23-paragraph 6-“In conjunction with any acquisition, except that portion of acquisitions made with funds provided under 87-1-242(1), FWP is required to include 20% of the amount of purchase price or \$300,000 whichever is less, to be used for maintenance of the property, consistent with the good neighbor policy (87-1-209 MCA).” The DNRC requests that the Final EA contain a much more detailed description of the type of account this money would be held in, what types of “maintenance of the property” activities would be authorized expenditures of these funds, how long would this account last and how would these funds be replenished as or when they are exhausted? In addition, we would like the Final EA to include an expanded explanation of DFWP’s “good neighbor policy” and how this would be implemented in DFWP’s management of the area and interaction with other landowners in Fish Creek.

FWP Response: FWP is also required to establish a maintenance account to be used for weed maintenance, fence installation or repair of existing fences, garbage removal, implementation of safety and health measures required by law to protect public, erosion control, streambank stabilization, erection of barriers to preserve riparian vegetation and habitat, and planting of native trees, grasses, and shrubs for habitat stabilization. Such maintenance activities would be consistent with the good neighbor policy.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Our comments specific to the DRAFT Preliminary Management Plan are: Page B-4-paragraph 2-last sentence-“Potential future opportunities would attract new users/user groups providing potential economic benefit to Mineral County and could include trail systems, hut-to-hut hiking, biking and cross-country skiing, a fire lookout rental, equestrian campground, and expanded camping opportunities to meet increasing demand in the Alberton Gorge and Fish Creek areas.” The DNRC is concerned that given this increase in activity in the Fish Creek area, and that DFWP has no plans to increase their staff- that conflicts between recreationists and our activities are, unfortunately, quite likely to occur. We are concerned that in order to ensure that recreationists are aware of the need to possess Recreation Access Permits on trust lands for activities other than hunting and fishing that we may be required to purchase, install and maintain signage on the boundaries of our lands. Should the number of non-hunting and fishing recreationists within the area increase, it is most likely that it would require a greater enforcement of the Recreational Use Rules on our ownership for what is likely to be an already over-extended DFWP enforcement staff. DNRC also has a concern that many of these proposed activities might require easements, permits

or licenses on or across trust lands and would like to see an analysis of the potential number of these that we may be required to process discussed in the Final EA. Timber management remains one of the primary revenue generating activities that DNRC will continue to conduct in the Fish Creek drainage and we would like to see an analysis of the potential for and solutions to any conflicts between increased numbers of recreationists and logging activities including truck traffic on the Fish Creek Road contained in the Final EA.

FWP Response: Thank you for your comments. FWP will begin the process of developing a long-term management plan for the Fish Creek property in the 36-month period following acquisition. We invite DNRC to participate in this long-term planning process, at which time we will consider and fully evaluate future management options.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page B-9-paragraph 3-second sentence- “For the first 3-years, MFWP would close the area delineated in Appendix F from December 1st through May 14th to all public access to provide security for wintering wildlife. (the boundary is contingent on a cooperative agreement with DNRC.)” The DNRC was not aware of this plan until we reviewed the Draft EA and have several concerns regarding this closure. We believe that this would again create an increased demand on DFWP’s enforcement staff and would like to see a discussion of DFWP’s plans for administering this closure included in the Final EA. In addition, we have a concern that we may not be able to complete the process required to enact this closure by December 1, 2010. This would also place an additional workload on DNRC staff that we may not be able to support.

FWP Response: Mack Long, Lee Bastian and Mike Thompson (FWP) met with Tony Liane (DNRC) at FWP’s Region 2 headquarters on January 19, 2010, prior to the release of the EA. At that time, FWP informed DNRC of the proposed closure and obtained verbal concurrence from DNRC. If issues have arisen since that meeting, we would be happy to discuss them.

Comment: MT Department of Natural Resources and Conservation (DNRC)

Page B-13-7.4 Camping-Management Strategies-Item c)- A vehicle accessible front-country equestrian campground near the confluence area of the South and West Forks of Fish Creek.” It would appear that DFWP may be suggesting an expansion of the Forks FAS which is on DNRC ownership. In addition, DNRC has an existing Cabinsite located in the immediate vicinity of the Forks FAS. DNRC would like to see a more in-depth discussion for the location, size and design of any campground planned in this area contained in the Final EA.

FWP Response: A concept plan for proposed park facilities will be developed through a long-term management planning process. That will take place following acquisition and will include public involvement. Any proposal that would include DNRC parcels would have to include discussions & agreement with DNRC. Any park facility development would require an independent MEPA analysis.

Comment: MT Department of Natural Resources and Conservation (DNRC)

In the Draft Preliminary Management Plan, there is discussion with respect to the impacts of recreation on wildlife (Sections 5.2 and 7.1). The document states that “Providing intact, high quality, secure winter range is important for wintering elk and deer” (Section 5.2 page B-9). However, the only portion of the lands subject to closure occurs in the southeast portion of Fish Creek, south of Deer Creek, on the WMA. There should be justification in the Final EA detailing why the same protections would not be afforded to “critical” elk winter range contained within the Park’s proposed boundaries. FWP may want to consider extending such closures to equestrian use as well. Naylor et al. (2009:334) hypothesized that reduction in elk travel during horseback riding could indicate either a habituation to horseback riding or elk could be avoiding areas near horseback routes. In the case of habituation, Thompson and Henderson (1998) reported an increasing occurrence of elk not responding to predictable and harmless human activities on winter ranges in the urban fringe. They noted that the habituation response was an adaptive behavioral strategy promoted by the need to conserve energy and find unutilized resources. Tolerance, or habituation, may be misleading as MacArthur et al. (1982 in Canfield et al. 1999) and Stemp (1983 in Canfield et al. 1999) reported increased heart rates of bighorn sheep at the appearance of human intruders in their habitat. In the case of the latter hypothesis (avoidance), this could result in a loss of habitat. Naylor et al. (2009:334) also noted that, in the case of the latter hypothesis, such response by elk was noted to ATV treatments over time by Preisler et al. (2006).

FWP Response: As also disclosed in the Preliminary Management Plan, FWP will consider whether and where to add winter closures for the greatest benefit of wildlife during the 36 months budgeted for development of a long-term management plan.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

The Fish Creek EA inappropriately pre-decides future decision making. The Draft Management Plan states the following: Management Strategies: Begin developing (with public involvement) a final management plan, which would provide for the following: a) An appropriate number and distribution of front-country and backcountry campsites and/or areas. b) A vehicle accessible front-country fee campground in the northern portion of the Fish Creek drainage. c) A vehicle accessible front-country fee equestrian campground near the confluence area of the South and West Forks of Fish Creek. (Draft Preliminary Management Plan, B-13)

This statement is inappropriately pre-deciding the future development of the management plan by stating that the final management plan “would” include a fee equestrian campground, fee campground, and front and backcountry campsites. Based on public comments, budgetary constraints, fish and wildlife habitat requirements, etc...FWP may find that these facilities are not practical, prudent and/or wanted. For this reason, the draft management plan should state that the final management plan “may” provide for these facilities.

FWP Response: We agree that the preliminary management plan should be corrected to state that it *may* provide for the facilities listed above. FWP’s intent in sharing possibilities

such as a fee equestrian campground and other potential future developments was to reveal some early ideas of FWP staff. However, the preliminary management plan does not provide for any such developments during the three-year interim period before a long-term management plan may be developed and proposed, with public participation. You are correct in stating that FWP must be willing to consider the preliminary management plan to be a viable long-range alternative as well (i.e., a viable future no-action alternative) if this proposed acquisition action is to be separate under MEPA from any future proposal to develop beyond plans disclosed in the preliminary management plan.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

The EA states that “Within the State Park, implement a hunting access system that allows FWP to monitor and regulate hunting activity and establish conditions that allow hunters and non-hunters to safely share recreational resources.” (Draft Management Plan, B-14) What kind of “hunting access system” is FWP contemplating for the State Park? MT BHA can understand the need for reasonable safety buffers around a campground, but how does FWP intend to “monitor and regulate” hunting activity? Will there be a lottery system for access, a sign in box, or some other system? MT BHA strongly encourages MFWP to retain an open hunting access policy for the lands and not restrict walk-in access in anyway, with the exception of a reasonable safety buffer for front-country facilities.

FWP Response: During the 36-month life of the Preliminary Management Plan, no development is planned in the State Park that would preclude open and traditional hunting access, with the possible exception of the immediate area of the Williams Peak Lookout. FWP is committed to maintaining hunting opportunities reasonably similar to those presently allowed within the area of the State Park, and only meant to suggest in the EA that safety zones or other similar safeguards may need to be employed around any campground that may be developed under the auspices of a future management plan.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

The EA is explicit in several places that outfitted hunting and fishing would not be allowed on the WMA, however, the EA seems to mistakenly state that hunting outfitting would be allowed on the state park. The EA states: “Commercial uses such as hunting and fishing, mountain bike concession or other public private partnerships could be permitted on the state park component in accordance with FWP commercial use rules.” (EA, page 21) However, FWP’s Commercial Use Rules are explicit that all commercial hunting outfitting is prohibited on all department lands, not just WMA’s. The Commercial Use Rules, ARM 12.14.115, state that: “Commercial hunting outfitting is prohibited on all department land and on water bodies that are located entirely within the boundaries of department land. Commercial fishing outfitting is prohibited on all wildlife management areas.” Given FWP’s Commercial Use rules, the EA should explicitly state that no commercial outfitting would be allowed on either the WMA or state park. While commercial fishing outfitting could be allowed on the state park, the sensitivity of native bull trout and westslope cutthroat trout in Fish Creek should make the department exclude commercial angling outfitting in the state park in addition to the WMA.

FWP Response: Thank you for providing this correction and clarification regarding the FWP commercial use rules as they pertain to outfitting on WMAs and State Parks.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

The Draft Preliminary Management Plan states that “Overlapping land acquisition priorities occur in the northern portion of the Fish Creek drainage and are focused primarily on conflicting wildlife and recreation resource values.” (Draft Preliminary Management Plan, B-20) Specifically, what are the wildlife values and recreation values that are in conflict and why are fish and wildlife being subjected to a large state park in the Fish Creek Drainage that will certainly result in increased wildlife conflict?

FWP Response: Please continue reading in Appendix B, where we attempted to answer the question, “what are the wildlife values and recreation values that are in conflict..?”. The management stipulations in Appendix B are designed to prevent conflicts in areas where conflicts are anticipated.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

One Feb 1, FWP published a revised Appendix A, which adds about 800 acres to the proposed area including a park. Why was this revision included 11 days after the release of the draft EA without any explanation? Also, why are the additional lands included in the proposed State Park area instead of the WMA? What additional funds were provided that could be allocated for additional acres in the State Park?

FWP Response: In the days following the release of the draft EA to the public, the FWP Parks Division identified additional Access Montana funding that could be applied to the Fish Creek property acquisition. The FWP Fish and Wildlife Division considered the opportunity and trade-offs of adding more acres to the State Park. FWP considered and dismissed alternative parcels for inclusion in the State Park before arriving at the addition in the northeast portion of the Fish Creek property. Reasons for dismissing alternative parcels were difficulties in avoiding or mitigating potential negative impacts on wildlife resources. The parcels chosen for addition to the State Park are within the northeast wildlife linkage zone, as identified by the U. S. Fish and Wildlife Service. However, much of the northeast linkage area is outside the State Park boundary. A concept plan for proposed park facilities will be developed through a long-term management planning process that will consider the wildlife values and include public involvement. The parcels added to the proposal in early February are contained within T14N, R24W, Section 3 (S1/2SW), and Section 9 (All), and the revised map of the Park boundary is attached.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

“According to the MFWP website, “Access Montana was created to improve access to state and federal lands and to help reduce the conflicts that arise when sportsmen utilize public lands.” With the exception of a campground at the north end of the acquisition, it seems strange that use of Access Montana funds is being proposed for a state park, when in fact a state park would likely increase the conflicts that arise when recreationists use public lands through the development activities stated above. A WMA, on the other hand, would decrease conflicts for sportsmen and would be a better use of the Access Montana program funds.

FWP Response: The Access Montana Program information provided on the FWP Web site (<http://fwp.mt.gov/hunting/hunterAccess/public.html#montana>) does pertain to improving access to state and federal lands and to helping reduce the conflicts that arise when sportsmen utilize public lands. Coincidentally, the Access Montana Program listed on the FWP Web site is different than the Access Montana Program identified in the Draft EA for use in funding the State Park portion of the Fish Creek Acquisition. This funding source matches FWP's purpose and direction and is appropriate in proposing to purchase the Fish Creek property.

Comment: Hellgate Hunters & Anglers and Montana Backcountry Hunters & Anglers

MT BHA recognizes that certain developed recreation facilities such as campgrounds – if sited properly – could mitigate the impacts of dispersed recreation and provide important camping opportunities – and we support a campground and significantly smaller state park in the northern boundary of the acquisition south of Interstate 80. However, MT BHA encourages FWP to limit the facilities to the following: 1.) places to pitch a tent or park a camper, 2.) vault toilet, 3.) fire rings, and 4.) a bear-proof dumpster. The following is a non-comprehensive list of facilities and amenities provided at other state parks in Montana that are not appropriate or needed in the Fish Creek drainage if a state park is established: electrical hookups, RV dump stations, showers, flush toilets, pavilions, horseshoe pits, Frisbee golf courses, playgrounds, firewood vendors, visitor center, food concession, boardwalks, yurts, cabins, huts, and comfort stations.

FWP Response: Thank you for your comment. We will consider these and many other inputs from the public during the process of developing a long-term management plan for the Fish Creek property, if purchased.

Comment: Pam Reed

Will weed abatement improve from past ten years?

FWP Response: FWP is required to establish a maintenance account to be used for weed maintenance, fence installation or repair of existing fences, garbage removal, implementation of safety and health measures required by law to protect the public, erosion control, streambank stabilization, erection of barriers to preserve riparian vegetation and habitat, and planting of native trees, grasses, and shrubs for habitat stabilization. FWP's desired condition is to keep noxious weeds contained and controlled to prevent loss of native species and subsequent declines in plant community productivity. FWP would immediately implement chemical, biological and mechanical control measures in keeping with the MFWP Statewide Weed Management Plan. In calendar year 2010, FWP would budget \$50,000 for the direct control of noxious weeds on the WMA, focusing first on chemical control along roadsides and other primary travel corridors. A containment strategy for weed occurrences in the uplands would be further ground-truthed and implementation begun, also in 2010.

Comment: Pam Reed

Will pine beetle infestation improve from past ten years?

FWP Response: FWP will begin a forest inventory upon acquisition of the Fish Creek property and consider needs and options for containing beetle infestations.

Comment: Pam Reed

Report states \$300,000 will go into a maintenance account. What maintenance requirements are these funds expected to cover. Is this an annual budget amount or one-time funding? What funds will be available for future maintenance needs?

FWP Response: The 2009 Legislature passed SB164 (Good Neighbor), which amended 87-1-209 MCA and established the funds in 87-1-230 MCA. The intent was to provide statutory appropriations for the maintenance costs of FWP lands and water and to provide a revenue stream for the fund. Priority expenditures are for weed control and fence maintenance, and also to address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction. FWP's \$300,000 deposit into this account, which would be triggered by the proposed acquisition of the Fish Creek property, would be a one-time payment, but would augment other deposits from other FWP projects across the state. Therefore, as long as the account is managed to maintain a balance, the Fish Creek property would be eligible along with other FWP properties to receive funds for the sort of expenditures mentioned above. In addition, FWP allocates annual maintenance budgets using revenues generated from the sale of Montana hunting licenses, and WMAs benefit from an account earmarked by the legislature for property maintenance and habitat improvement.

Comment: Pam Reed

When will park be developed? How will development be determined? Can any of the park fees be used to support local services (park ranger, fire protection, law enforcement). Note: Would like to see: a campground respectful of wildlife – bear proof containers/lockers for food storage and garbage cans throughout park; campground with camp hosts to enforce rules; camp sites with electrical and septic hook-ups for RV campers; well maintained restrooms; input from the community on campground development as noted in EA.

FWP Response: FWP will identify and inventory recreation opportunities. That process will take place following acquisition as time and funding allow, and will include public involvement. FWP will first concentrate on inventory and fundamental maintenance tasks. As issues and concerns related to basic maintenance are addressed and assimilated into routine FWP operations, we expect to turn our attention toward visualizing the long-term potential of the property, and we expect to involve the public as we go. Thank you for sharing your ideas.

Comment: Pam Reed

Are their plans for ATV or snowmobiling trails in either the park or WMA? If so, input from community should be considered as well as impact to wildlife. Not saying it shouldn't be allowed – just needs to be well thought out.

FWP Response: In the first 36 months, FWP would restrict snowmobiles and other motorized travel to open routes as depicted in Appendix E of the Draft Preliminary Management Plan, and to parking areas and developed recreation sites. FWP would provide secure areas for wildlife with no human disturbance on the Wildlife Management Area from

December 1st through May 14th annually (See Appendix F of the Draft Preliminary Management Plan). In the long run, FWP expects to enter into a process (with public involvement) of designing a public access plan that supports an array of recreational opportunities consistent with fish, wildlife and recreation management objectives. We agree that this has to be well thought out.

Comment: Pam Reed

Will any of the currently closed roads be opened for access?

FWP Response: No, certainly not in the first 36 months, and not in advance of the process (with public involvement) of designing a public access plan for the long run.

Comment: Pam Reed

Challenges noted on page 21. What planning will take place to address these issues?

FWP Response: From page 21 of the EA, “With the large size of this property and limited resources, there will likely be challenges associated with managing recreation on the property. These challenges could be related to: resource inventory, enforcement coverage, vandalism, maintenance, visitor service, facility development, etc. For the immediate future, existing FWP staff will have to manage the property.” The planning process to address these issues in the long term will begin as time and funding allow over the coming 36 months.

Comment: Pam Reed

Are there still plans for an additional on/off ramp between the existing ones at Fish Creek and Tarkio?

FWP Response: It is FWP’s understanding that there are no immediate plans. We suggest contacting the Montana Department of Transportation.

Comment: Pam Reed

Have there been discussions about the increase in traffic on Old Hwy 10 between the exit at Cyr and Fish Creek and the impact this will have on a roadway already in need of repair and to the Cyr Bridge?

FWP Response: Currently, Old Hwy 10 is used regularly by recreationists who access the Alberton Gorge between the Cyr and Fish Creek exits on I-90. This use is expected to continue. The proposed acquisition of properties in the Fish Creek project area alone is not expected to lead to an increase in traffic volumes. However, depending on future development within the project area and the popularity of those developments with additional recreationists, traffic levels may increase. FWP will consider potential impacts in future development proposals and explore opportunities to address road repair and maintenance with all parties involved. As an aside, FWP supported Mineral County’s proposed 2009 Cyr Bridge and Old Highway 10 Resurface Project and submitted a letter of full support to US Representative Denny Rehberg’s office in a County-led effort to secure funding.

Comment: Pam Reed

Commissioners support acquisition which should indicate there is no negative impact to the county. Does this mean they are not concerned with funding any services (law enforcement or fire protection) this acquisition may create?

FWP Response: FWP law enforcement does rely heavily on its relationship with Mineral County already, but the Fish Creek purchase would not add significantly to the county enforcement burden as the project is currently proposed. Wildland fire protection is under agreement with the Forest Service and Department of Natural Resources and Conservation. FWP will pay taxes to the county and Mineral county will decide how those dollars will be used.

Comment: Pam Reed

Tax revenues to county will not change. FWP will pay \$50,000 per year based on current assessment. What assurances will there be for these funds to be used to support the increased need for law enforcement and fire protection in the area surrounding the park/WMA?

FWP Response: FWP does not anticipate significant increases in demand for county services as a result of this purchase. The matter of how the taxes paid by FWP will be used by Mineral County is not within our purview.

Comment: Pam Reed

How will fire protection in the area be handled? There are concerns that bringing more folks into the area during fire season may create a higher fire danger requiring an increase in services resulting in higher property taxes.

FWP Response: Wildland fire protection is under agreement with the Forest Service and Department of Natural Resources and Conservation, and would not affect the level of services required from Mineral County.

Comment: Pam Reed

Besides restricting commercial hunting and fishing, what change in access will impact Joe Public? Will access improve?

FWP Response: In the interim 36 months, motorized access will look very similar to the current situation, except that the elk winter range between Deer Creek and Wig Creek would be closed to all public entry from December 1 to May 15.

Comment: Cyr Family

Members of the Cyr family own property next to some of this land, and we have water rights on two springs on this land. We would like to have in writing that before this purchase by the state that we will still have the same water rights. One spring has supplied water to our properties and has been in our families use for over 100 years.

FWP Response: FWP ownership will not impact your water rights or access to them.

Comment: William Thomas

What is the history of mineral extraction? What is the general location of commercially valuable minerals? Who owns the mineral rights? What commercially valuable minerals exist? What is the likelihood of mineral extraction in the future?

FWP Response: There has been mineral extraction in the area historically, but not in any quantity for many years, to the best of our knowledge. Mineral ownership is approximately as follows: Canyon Resources owns the hard rock minerals under approximately 31,890 acres. The United States reserved minerals on approximately 3,417 acres. The Nature Conservancy (TNC) owns minerals under approximately 5,500 acres which will transfer to FWP at closing. BP Arco owns the oil and gas rights under most of the property. TNC had a minerals remoteness test completed and FWP had the Bureau of Mines and Geology research this area. Both concluded that the potential for economic mineral development was negligible.

Comment: Valerie Bayer

Is the only way FWP can purchase the land is to have a state park and campground?

FWP Response: There is no other practical alternative. Purchasing the WMA without also conserving the Park acreage would leave deer and elk winter range, an important wildlife linkage area, and important fish habitat unprotected in the “middle” of the WMA. This would compromise the investment made to purchase the WMA itself. Likewise, if more Habitat Montana and Pittman-Robertson funding were used to expand the WMA, those funds would be depleted at the expense of other habitat protection projects across Montana. Access Montana funding is appropriate to complete the project as proposed.

Comment: Valerie Bayer

If most of the visitors to the state park and campground are those folks visiting the area of the Alberton Gorge, why wouldn't we want the state park to be placed in the area on the North side of I-90, in an effort to reduce traffic and impact of those visitors on Fish Creek. Why put the state park in such a sensitive area--right where the trout will be migrating to/from the Clark Fork to Fish Creek?

FWP Response: The mouth of Fish Creek is already heavily used by the public. FWP ownership would allow FWP to better regulate and control recreational use in this area and on this site to protect the fishery resource in the future.

Comment: Valerie Bayer

If there must be a campground, does it have to be so large? I would request it be as small as possible to lessen the impact on the environment. Also, I would request it be a primitive campground like the others in the area. That might make things a bit better for the wildlife. Once a campground is improved with electricity and water hook-ups, the traffic and use will be so much greater and the magic of Fish Creek will be lost.

FWP Response: Thank you for your comment. FWP will identify and inventory recreation opportunities. That process will take place following acquisition as time and funding allow, and will include public involvement.

Comment: Katie Thompson

In considering more of the impacts on the general area that the proposed park might have west of Alberton, I would ask FWP to clarify for Mineral County citizens, who has ownership of the Cyr Bridge? While this does not reside in the zone specified in the EA, it could easily be determined that this bridge, as well as highway 10 would experience increased use. Citizens in this area have tried to obtain information on who has ownership of the Cyr bridge with no success. It is my hope that this can be clarified for the public before further use might be incurred.

FWP Response: This is beyond the scope of this proposed action, however, as mentioned above, the proposed acquisition of properties in the Fish Creek project area alone is not expected to lead to an increase in traffic volumes. Depending on future development within the project area and the popularity of those developments with additional recreationists, traffic levels may increase. FWP will consider potential impacts in future development proposals and explore opportunities to address road repair and maintenance with all parties involved. As an aside, FWP supported Mineral County's proposed 2009 Cyr Bridge and Old Highway 10 Resurface Project and submitted a letter of full support to US Representative Denny Rehberg's office in a County-led effort to secure funding.

CORRECTIONS AND ADDITIONS TO THE DRAFT EA

As noted earlier in this Decision Notice, FWP revised the boundaries of the proposed State Park and proposed Wildlife Management Area (WMA) from those originally depicted in Appendix A of the Draft Preliminary Management Plan. This revision increased the State Park by approximately 750 acres (11%) and decreased the WMA by the same acreage (2%) from the original disclosure; the final proposal is a State Park of approximately 7,650 acres and a WMA of approximately 33,295 acres. A copy of the revised map is attached herein.

In response to public comment, FWP intends to clarify here that trapping may be allowed with written permission on FWP lands. The provision for requiring written permission allows FWP to control the geographic distribution of trapping on the property, seasons, methods, and require any other stipulations as may be needed to minimize potential conflicts with other resources. FWP may consider limiting the type of trapping that occurs within the wildlife linkage areas in the northwest and northeast portions of the property.

In response to public comment, FWP intends to clarify here that no development is planned in the State Park that would preclude open and traditional hunting access, with the possible exception of the immediate area of the Williams Peak Lookout.

In response to public comment, FWP corrects its statements regarding commercial outfitting on FWP lands to read, "Commercial hunting outfitting is prohibited on all department land (WMA

and State Park) and on water bodies that are located entirely within the boundaries of department land. Commercial fishing outfitting is prohibited on all wildlife management areas.”

In response to public comment, FWP intends to clarify here that a decision herein to acquire the proposed Fish Creek Wildlife Management Area and Fish Creek State Park in no way obligates FWP or predisposes the public to any particular management action beyond those specified for the first 36 months of ownership within the Preliminary Management Plan. FWP also wishes to clarify that consideration of developments such as a new developed campground, an equestrian campground, a yurt system, or any similar possibilities for the future may or may not occur, depending on public involvement, an assessment by FWP of staff and funding, and many other inputs into a long-term management planning process.

Some comments received suggested that the Preliminary Management Plan was unclear in differentiating management actions suggested for interim implementation from those that were intended to illustrate potential and future management actions. These are the points in the Preliminary Management Plan that are being decided herein:

- Continue monitoring fish relative abundance, genetic composition, and aquatic species distribution in the main stem and tributaries.
- Identify and evaluate opportunities to stabilize and revegetate closed roads.
- Evaluate effectiveness of fishing regulations in protecting native trout.
- Identify and evaluate opportunities for instream habitat enhancement.
- Ensure connectivity among aquatic populations
- Evaluate impacts and management options for nonnative fish.
- Protect and restore riparian corridors
- Correct unnatural impediments to fish movement.
- Remove or repair sub-standard stream crossings.
- Protect instream flows.
- Identify and evaluate opportunities for instream habitat enhancement.
- Monitor whirling disease as necessary.
- Enhance westslope cutthroat trout contribution to fishery.
- MFWP would conduct a Wildlife Assessment.
- Continue current trend surveys, including aerial surveys for elk and ground surveys for deer.
- Establish and conduct additional surveys for big game, furbearers, upland game birds, and non-game species.
- MFWP would close the area delineated in Appendix F from December 1st through May 14th to all public access to provide security for wintering wildlife. (The boundary is contingent on a cooperative agreement with DNRC.)
- Maintain and enhance open grasslands and shrubfields.
- Allow mountain lion hunting in winter, except within the closed area delineated in Appendix F.
- Recommend hunting season regulations that balance predator and prey relationships.
- Begin working on a vegetation management plan that would entail surveying and mapping habitat types on the subject property.

- Forest management during the interim 3-year period would not include timber harvesting.
- Consider enhancing riparian areas by revegetating with native trees and shrubs, and reseeded with native grasses and forbs.
- Implement chemical, biological and mechanical control measures in keeping with the MFWP Statewide Weed Management Plan. In calendar year 2010, FWP would budget \$50,000 for the direct control of noxious weeds on the WMA, focusing first on chemical control along roadsides and other primary travel corridors. A containment strategy for weed occurrences in the uplands would be further ground-truthed and implementation begun, also in 2010.
- Identify and map all noxious weeds on the subject lands in MFWP's first 36 months of ownership.
- Coordinate with the Mineral County weed district.
- Work with neighboring landowners on control efforts across property boundaries.
- Conduct a compliance level inventory of heritage resources located on the property.
- Consult with the State Historic Preservation office for all undertakings with potential to disturb heritage resources.
- Educate the public about the importance of leaving heritage resources for future generations.
- Interpret cultural resources through sensitive and appropriate displays, programs and information.
- Conduct an inventory and assessment of existing roads.
- Begin the process (with public involvement) of designing a public access plan that supports an array of recreational opportunities consistent with fish, wildlife and recreation management objectives.
- In the interim 36 months, restrict motorized travel to open routes as depicted in Appendix E, and to parking areas and developed recreation sites.
- Delineate property boundaries as necessary and as funds become available.
- Public use regulations (listed under Part 7.2) would be established, posted and enforced in a manner that protects public safety and prevents damage or degradation to natural, cultural or recreational resources.
- FWP would post site information on existing FWP websites and update brochures.
- Assess the structural stability of the tower and cab (Williams Peak Lookout), as well as the feasibility of addressing any potential structural shortcomings.
- Complete any required maintenance of the tower and cab (Williams Peak Lookout) to ensure public safety and a high quality recreation experience, dependent upon available funding.
- Develop and implement a program to provide the lookout as an overnight rental opportunity, dependent upon available resources.
- In the interim 36 months, camping would continue to be provided at Forks and Big Pine fishing access sites.
- Additional camping opportunities would be evaluated based upon compatibility with natural resource values.
- Pioneered sites that are incompatible with natural resource values (such as, but not limited to, stream banks and riparian vegetation) could be closed to camping to avoid further damage

- Continue the existing Alberton Gorge river recreation management program.
- In the interim 36 months of this Preliminary Management Plan, allow yearlong non-motorized access on existing open roads, closed roads, and trails with the exception of the winter closure on the WMA (See Appendix F).
- Manage hunting in accordance with current districts and regulations.
- Within the State Park, continue allowing public hunting, and implement a hunting access system that provides reasonable safety for users of the Williams Peak Lookout.
- Manage fishing in accordance with current creel limits and fishing regulations.
- Within the State Park, implement a hunting access system that allows MFWP to monitor and regulate hunting activity and establish conditions that allow hunters and non-hunters to safely share recreational resources.
- Promote appropriate fishing etiquette and catch and release techniques.
- Facilitate access to fishing waters where appropriate.
- Install a standard State Park informational kiosk at primary entrances to the site.
- Develop appropriate educational and interpretive themes consistent with the areas values and resources.
- Develop a commercial use plan with criteria for evaluating commercial use requests.
- Permit approved commercial use requests in accordance with the FWP Commercial Use Rule and Commercial Use Fee Rule (ARM 12.14.101-170).
- No commercial hunting or angling outfitting is permitted on the WMA, nor commercial hunting outfitting on the State Park
- Develop a strategy to provide an interim site presence capable of providing basic site stewardship while funding and FTE to administer the site are being pursued.
- Pursue long-term operations funding and FTE for a Park site manager and park ranger to provide adequate site stewardship, administration and visitor use management.
- Identify and inventory recreation opportunities.
- FWP would implement a Montana Environmental Policy Act (MEPA) compliance process for all major actions including ground disturbing construction or capital improvement projects.

DECISION

With the corrections and clarifications preserved as noted above in this Decision Notice, and with the addition of the amended map depicting the revised WMA and Park boundaries (also as noted above), we adopt the Draft EA, Draft Preliminary Management Plan, and Draft Socio-Economic Assessment as final. All of these documents will be posted on FWP's website.

Based upon the Environmental Assessment (EA) and the applicable laws, regulations, and policies, we have determined that the proposed action will not have measureable effects on the human and physical environments associated with this project. Therefore, we conclude that the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is unnecessary.

This decision has benefited from extensive public review of the proposal and thoughtful, informed comment. We have heard from the Mineral County Commissioners, adjacent private

landowners, adjoining public-land management agencies, the U. S. Fish & Wildlife Service, non-profit conservation groups, a large number of the local citizenry, and interested parties from across western Montana.

The common thread connecting this large body of public comment is that Montana Fish, Wildlife & Parks (FWP) should own and conserve the proposed project area along Fish Creek. By way of their comments, the public has overwhelmingly reaffirmed its interest in conserving the fish, wildlife and recreation resources of this area for present and future generations. More specifically, they value Fish Creek and its fishery, the wildlife resources and public hunting, and the existing array and general level of recreation uses. The public has concurred that FWP is the agency to conserve and perpetuate these natural and recreation resources in the public interest.

This body of comment further demonstrates the public's broad consent and support for the proposed Wildlife Management Area (WMA). We gather from this that the public's values and vision for present and future management of the Fish Creek property are closely aligned with the objectives of the proposed WMA. In this, we find a strong commitment to fish and wildlife conservation as a priority, with recreation managed in keeping with levels that the resource can continue to support. In this vein, we note concern expressed by some that recreation use is growing at present, and already in need of further management to protect fish and wildlife. We view the placement of a State Park in its proposed location as a strategy for managing and redirecting current and growing recreational use in a manner that will allow management of the fish and wildlife resources across the Park and the WMA overall.

The concept of a Fish Creek State Park attracted divided public comment. People supporting the State Park expressed an interest in camping, and cited the potential economic benefits. Given the strong affiliation with resource conservation in the overall body of comment, we view comments in support of the State Park as affirmation of trust that management by FWP will put the resource first—a value shared equally by the FWP Parks Division and the FWP Fish and Wildlife Division. The working model for cooperation between the State Park and the WMA, as disclosed in Appendix B of the Draft Preliminary Management Plan, would seem satisfactory in the eyes of those who supported the State Park or did not raise the State Park as an issue. People opposing the State Park raised concerns about potential future developments within the State Park, which could attract greater and expanded recreation traffic to Fish Creek. Concerns associated with increased recreation traffic included road maintenance, fishing pressure, conflicts with public hunting, and enforcement. It is our interpretation that most of the concerns expressed by people who commented in opposition to the State Park could be addressed if the State Park were managed in a way to minimize the potential impacts of attracting more people to Fish Creek.

Few comments took issue with proposed management direction for the first three years of FWP ownership—whether in the WMA or the State Park—as disclosed in the Draft Preliminary Management Plan. Comment was received questioning the proposed winter closure of lands lying between Deer Creek and Wig Creek. Interest was noted in continued firewood gathering on the subject lands, and in allowing continued commercial outfitting. It is noteworthy that the State Park designation offers a possible opportunity for future firewood gathering that the WMA designation does not; therefore, we see opportunity for the State Park to complement the WMA

in terms of addressing a broader spectrum of impacts to existing uses. Generally, however, the Draft Preliminary Management Plan proposes status quo for the coming three years, and did not attract numerous comments.

The decision to be made, and for which effects were disclosed and analyzed under MEPA, is whether FWP should acquire the Fish Creek property, and whether FWP should manage this property in the manner described in the Draft Preliminary Management Plan. The preponderance of public comment is supportive or appears to consent to these aspects of the proposed action.

Management beyond the first three years of FWP ownership, particularly as pertaining to State Park management, is beyond the scope of this current analysis or decision. Clearly, public comment indicates that future management is of great interest—and in many cases, concern—to a broad segment of the public. FWP stated in the Draft EA that development of a long-term management plan would occur with public involvement and that any such plan would be proposed and analyzed under a MEPA process separate from this one.

Public comment raised the concern that a decision to acquire the Park is, in effect, a decision to develop it. However, FWP did not fully disclose nor analyze the potential effects of any future developments beyond the management strategies that were itemized for the next 36 months in the Draft Preliminary Management Plan. Therefore, the decision at hand is restricted only to the proposed purchase of a Fish Creek WMA, a Fish Creek State Park, and adoption of a Preliminary Management Plan to guide FWP's coordinated management of the properties for at least the first 36 months. Any future developments, significant adjustments in travel management, or other actions potentially affecting the human and physical environment would be proposed with public involvement and analyzed under MEPA. To be clear, actions that would be subject to future public review under MEPA, and for which a No-Action alternative would be viable, include but are not limited to any developed campground, ATV trails, additional winter closures for wildlife, equestrian campground, significant adjustments to the preliminary motorized travel plan, development of a trail system with yurts, or other similar activities mentioned (or not) as future possibilities in the Draft EA or Preliminary Management Plan. Conversely, implementation of an overnight rental opportunity for the Williams Peak Lookout was proposed for the coming three-year period within the Preliminary Management Plan and would be enabled with the decision to acquire Fish Creek State Park.

FWP and the public have long valued the Fish Creek watershed for its fish, wildlife, and opportunities for public recreation. Although Montanans have used Fish Creek as their own, we have always been the guests of consenting private timber companies, and have always been at risk of eventually losing fish and wildlife habitat and public access had the lands been sold for subdivision and development. Recent acquisition by The Nature Conservancy (TNC) of these and other Plum Creek lands in western Montana provided the once-in-a-lifetime chance for the Fish Creek watershed to come into public ownership. Montanans will forever be indebted to TNC—and to Plum Creek, the willing seller—for this opportunity to pass-on an intact and publicly accessible Fish Creek to future generations.

Fish Creek offers a unique opportunity to combine multiple funding sources and marry multiple objectives to conserve a watershed. Information and concerns brought forward by the U. S. Fish and Wildlife Service, Hellgate Hunters & Anglers, Montana Trout Unlimited, Montana

Department of Natural Resources and Conservation, Great Burn Study Group and others point clearly and accurately to the need for fish and wildlife conservation to be effectively incorporated into the design and management of the Park for this project to achieve its potential benefit and avoid unintended negative consequences. This information will help us in further refining and implementing guidance disclosed in Appendix B of the Preliminary Management Plan, which spells out recreation issues and stipulations within the WMA boundary, and fish and wildlife issues and stipulations within the Park boundary. And, with this decision to move forward with both a WMA and a Park in this ecological setting, we challenge ourselves to model a long-term management approach that separates people from sensitive resources in time and space, and preserves large expanses of open and generally undisturbed space and habitat, even as recreation occurs across those landscapes. We welcome this opportunity to develop and pioneer new concepts in fish, wildlife and recreation management, which we will need to apply in partnerships with other public and private entities in the future if we hope to continue conserving large landscapes elsewhere with limited funds, and if the public interest is so served.

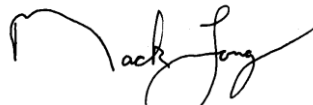
Management of a 41,000-acre landscape will challenge FWP. We are committed to working with our neighbors to address the specific issues they have raised as near or adjoining landowners. And, the issues and opportunities raised by others give us an excellent head start toward envisioning long-term management and a sound public involvement process for brainstorming and fine-tuning future proposals. Through this acquisition process we have made the acquaintance of interested and knowledgeable people who are willing to help us succeed. As noted in the EA, FWP will pay property taxes as would any private landowner in Mineral County, and has identified dedicated funding sources and grant opportunities for noxious weed control, resource restoration and property maintenance. In short, FWP comes to Fish Creek as a major landowner with a readiness and a responsibility to engage in the community for the long haul.

In consideration of these facts, we recommend to the Fish, Wildlife and Parks Commission that it approve the proposed Fish Creek Project acquisition.



Lee Bastian, Regional Parks Manager
Montana Fish, Wildlife & Parks

Date 2/26/2010



Mack Long, Regional Supervisor
Montana Fish, Wildlife & Parks

Date 2/26/2010